

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000
FAX: (202) 393-5760
www.skadden.com

DIRECT DIAL
(202) 371-7009
DIRECT FAX
(202) 661-9053
EMAIL ADDRESS
JERRY.PFEFFER@SKADDEN.COM

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December 4, 2015

VIA HAND DELIVERY

Christopher Lawrence
Office of Electricity Delivery
and Energy Reliability
U.S. Department of Energy
OE-20, Room 8G-024
1000 Independence Avenue, S.W.
Washington, D.C. 20585

RE: Application of Ontario Power Generation Inc.
for Renewal of Authority to Transmit Electric
Energy to Canada

Dear Mr. Lawrence:

On behalf of Ontario Power Generation Inc., we hereby submit for filing an original and five conformed copies of an Application for Renewal of Authority to Transmit Electric Energy to Canada. In addition, we enclose a check in the amount of \$500.00 payable to the Treasurer of the United States, as payment of the filing fee required by 10 C.F.R. § 205.309.

Please date-stamp the two extra copies and return them to our messenger for our files.

Respectfully submitted,


Jerry L. Pfeffer
Energy Industries Advisor

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY
AND ENERGY RELIABILITY

ONTARIO POWER GENERATION INC.) DOCKET NO. EA-290-_____

APPLICATION OF ONTARIO POWER GENERATION INC.
FOR RENEWAL OF AUTHORITY TO TRANSMIT
ELECTRIC ENERGY TO CANADA

Pursuant to section 202(e) of the Federal Power Act ("FPA"), 16 U.S.C. § 824a(e), and 10 C.F.R. § 205.300, et seq., Ontario Power Generation Inc. ("OPG"), hereby submits this application for a five-year extension of its blanket authorization to export electricity from the United States to Canada, previously granted by the Department of Energy ("DOE") on April 18, 2011 in Ontario Power Generation Inc., DOE Order No. EA-290-B (April 18, 2011) ("2011 Order"). OPG requests that this authorization be made effective no later than June 21, 2016, the date on which its current authority to export electricity from the United States to Canada expires, to prevent any lapse in authority.¹

I. DESCRIPTION OF APPLICANT

The exact legal name of the Applicant is Ontario Power Generation Inc. OPG is an Ontario corporation having its principal place of business at Toronto, Ontario, Canada. OPG was formed pursuant to section 53 of the Electricity Act (1998), and was incorporated under the Business Corporations Act (Ontario). All of the outstanding shares of OPG are held in the name of the Provincial Government of Ontario.

OPG operates a number of power generating facilities in Ontario, some of which are owned by OPG and some by various subsidiary and affiliated corporations. OPG does not own or control any transmission or distribution assets and does not have a franchised service area in either the United States or Canada.² OPG purchases energy and capacity in wholesale markets in the United States exclusively for export to and resale in Canada pursuant to its DOE authorization. While OPG itself does not make any electricity sales in the United States, its trading affiliate, OPGET, does make market-

¹ See 2006 Order at 12, para. J.

² Ontario Power Generation Energy Trading, Inc. ("OPGET"), the power marketing affiliate of OPG that is authorized by the Federal Energy Regulatory Commission ("FERC") to make market-based sales in the United States, also does not own or control any generation or transmission assets, and does not have a franchised service area in the United States.

based sales in the United States pursuant to its FERC market-based rate authorization.³ However, OPGET does not make exports of power from the United States to Canada and all power exports from the United States to Canada contemplated pursuant to the instant application will be made by OPG.

The transmission network and wholesale power market in Ontario is operated by the Independent Electricity System Operator ("IESO"), an Ontario corporation which is wholly owned by the Provincial Government of Ontario. The IESO operates the Ontario transmission network pursuant to a tariff that has been determined to satisfy the reciprocity requirements of the *pro forma* open access transmission tariff ("OATT") issued by FERC in connection with FERC Order Nos. 888, 890 and 1000. In particular, the IESO tariff offers comparable and non-discriminatory transmission access to all market participants seeking to deliver power to U.S. markets interconnected with the Ontario transmission network.⁴

In the 2011 Order, the DOE authorized OPG to export electricity from the United States to Canada, subject to certain conditions, for a five-year period beginning June 21, 2011. OPG requests a five-year extension of this authority, enabling OPG to continue exporting electricity from the United States to Canada through the existing transmission facilities at the border between the United States and Canada which are identified on Exhibit C to this Application.

³ OPGET's predecessor entity received market-based rate authorization from FERC in *Ontario Energy Trading International Corp.*, 99 FERC ¶ 61,039, *reh'g denied*, 100 FERC ¶ 61,345 (2002), *reh'g denied*, 103 FERC ¶ 61,044 (2003), *petition for review denied sub nom. Consumers Energy Co. v. FERC*, 367 F.3d 915 (D.C. Cir. 2004). That entity's authorization was transferred from Ontario Energy Trading International Corporation to OPGET in 2008 and continues as the only OPG entity making sales in the United States.

⁴ FERC determined that the transmission tariff and market rules administered by the IESO satisfied the *pro forma* OATT reciprocity requirements in 2002 when it granted market-based rate authority to OPGET's predecessor entity. *See supra* note 3 and accompanying text. That finding was affirmed when the Commission approved OPGET's triennial market power update, including a representation that the IESO satisfied Commission reciprocity requirements for open access transmission service. *See Ont. Power Generation Energy Trading, Inc.*, FERC Docket No. ER08-580-001, Letter Order (Jan. 23, 2009).

II. COMMUNICATIONS

All correspondence and communications regarding this Application should be addressed to the following:

Andrew Barrett
Vice President, Regulatory Affairs
Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Canada
(416) 592-4463
andrew.barrett@opg.com

Jerry L. Pfeffer*
Energy Industries Advisor
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7009
jpfeffer@skadden.com

*Contact for questions or clarifications

III. JURISDICTION

There is no other federal, state or local government agency in the United States having jurisdiction over the actions to be taken under the specific export authorization sought in this Application.

IV. TECHNICAL DISCUSSION OF PROPOSED AUTHORIZATION

Section 202(e) of the FPA and the DOE's regulations provide that exports of electricity should be allowed unless the proposed export would impair the sufficiency of electric power supply within the United States or would tend to impede the coordinated use of the United States power supply network. 16 U.S.C. § 824a(e). DOE has interpreted this criterion primarily as an issue of the operational reliability of the domestic bulk electric transmission system. Accordingly, the export must not compromise transmission system security and reliability. *See, e.g., BP Energy Co.*, DOE Order No. EA-314 at 2 (Feb. 22, 2007), *renewed*, DOE Order No. EA-314-A (May 3, 2012).

OPG seeks blanket authority to transmit electric power to Canada as a power marketer. OPG has no electric power supply system on which the proposed exports could have a reliability, fuel use or system stability impact. OPG also has no native load obligations typically associated with a franchised service area. OPG will purchase the power to be exported from a variety of sources such as power marketers, independent power producers or U.S. electric utilities and federal power marketing agencies as those terms are defined in sections 3(22) and 3(19) of the FPA. 16 U.S.C. § 796 (19), (22). By definition, such power is surplus to the system of the generator.

DOE has previously found that market mechanisms and reliability oversight assure that power exports by a marketing entity with no franchised service area will not jeopardize domestic supply sufficiency in the United States. *See, e.g., Brookfield Energy Mktg. LP*, DOE Docket No. EA-368-A at 5 (June 3, 2015). DOE has previously found that, as a power marketer, OPG has no native load obligations and any power that OPG

purchases would be surplus to the needs of the entities selling the power to OPG. 2011 Order at 2. Therefore the electric power that OPG will export, on either a firm or interruptible basis, will not impair the sufficiency of the electric power supply within the United States.

OPG will make all necessary commercial arrangements and will obtain any and all other regulatory approvals required in order to schedule and deliver any power exports scheduled pursuant to the requested authorization. All of the electricity exported by OPG will be transmitted pursuant to arrangements with utilities that own and operate existing transmission facilities and will be consistent with the export limitations and other terms and conditions contained in the existing presidential permits and electricity export authorizations associated with these transmission facilities as shown in Exhibit C. OPG will schedule its transactions with the appropriate balancing authority areas ("BAAs") in compliance with the reliability criteria, standards and guidelines of the North American Electric Reliability Corporation ("NERC") and its member regional councils in effect at the time of export.

In scheduling exports over the border facilities listed in Exhibit C, OPG will obtain sufficient transmission capacity to wheel the exported power to and through the relevant border system. In doing so, OPG will be using domestic transmission facilities for which OATTs have been accepted by FERC, making reservations for transmission service in accordance with the transmission provider's Open Access Same-Time Information System ("OASIS"), and scheduling deliveries of the export with the appropriate Regional Transmission Organization(s) ("RTO"), Independent System Operator(s) ("ISO"), and/or BAAs. The posting of transmission capacity on OASIS indicates that transmission capacity is available and acceptance of the reservation by the BAA operator confirms that the transmission service requested by OPG can be provided. Furthermore, it is the responsibility of the relevant RTO, ISO, and/or BAA operator to schedule the delivery of the export consistent with established operational reliability criteria.

During each step of the process whereby OPG will request and obtain transmission service for power exports, the owners and/or operators of the relevant transmission facilities will evaluate the impact of the service request on the relevant domestic transmission system(s) and schedule the power to be exported only if such power transfers can be undertaken in full compliance with all applicable operating and reliability standards. DOE has previously determined that existing industry procedures for obtaining transmission service over the interconnected bulk power system provide adequate assurances that a particular export will not cause an operational or reliability problem. Thus, DOE conditions all export authorizations to ensure that any power exports pursuant to such authorization would not cause operating parameters on regional transmission systems to fall outside of established industry criteria or cause or exacerbate a transmission operating problem on the U.S. bulk power supply system. *See, e.g., Iberdrola Renewables Inc.*, DOE Order No. EA-360 (Sept. 2009), Paras. D, E, and J.

In determining the operational and reliability impacts of transmitting a proposed power export through a border system and across the border, DOE relies on the

engineering and technical studies that were performed in support of electricity export authorizations issued to that border system. OPG submits that reliance upon these historical studies in this docket continues to provide a sound basis upon which to grant the requested export authorization and that DOE need not perform additional impact assessments here, provided the maximum rate of transmission for all exports through a border system does not exceed the authorized limit of the system. For exports over international transmission facilities listed in Exhibit C that are not jurisdictional under FPA section 202(e) and for which operational reliability studies have been not been performed in support of export authorization requests, OPG requests that DOE rely upon the alternative technical studies DOE has relied upon in prior cases to determine the allowable transfer limits.

DOE has routinely found that, as a consequence of changes in utility industry structure and operation, including the formation of RTOs and ISOs, the energy transfer limits identified in prior export authorization studies for certain border utilities may no longer correspond to the limits used in actual system operation and DOE's approach to the evaluation of operational reliability. DOE has stated that it will initiate studies of this matter in the future and make any corresponding adjustments to these transfer limits that would be applied simultaneously to all energy marketers with export authorization. OPG requests that the authorization requested herein be automatically updated to reflect any new transfer limits adopted by DOE as a result of these planned studies.

Finally, OPG submits that because any power exports it schedules in accordance with the terms of the requested authorization would take place over existing international transmission lines pursuant to authority identical to that previously granted in the 2011 Order, the authorization requested herein should not require the preparation of either an environmental impact statement or an environmental assessment pursuant to the National Environmental Policy Act of 1969. Specifically, OPG submits that this Application qualifies for DOE's categorical exclusion for exports of electric energy under the National Environmental Policy Act of 1969, 42 U.S.C. § 4332(2).⁵

V. PROPOSED PROCEDURES

OPG proposes to export electricity through the existing transmission facilities at the border between Canada and the United States as described and identified in Exhibit C and will comply with the applicable requirements of the FERC, NERC and the export limitations associated with each facility. DOE relies on the technical reliability studies submitted in conjunction with an application for a DOE-issued presidential permit to construct a new international transmission line. As DOE has previously reviewed technical reliability studies submitted with the presidential permit applications for the border transmission facilities included in Exhibit C, OPG submits that no additional impact assessments are required here, given that OPG commits that the maximum rate of

⁵ DOE's regulations set forth this categorical exclusion, as follows: "Export of electric energy as provided by Section 202(e) of the Federal Power Act over existing transmission lines or using transmission system changes that are themselves categorically excluded." 10 C.F.R. pt. 1021, App. B to Subpart D, § B4.2.

transmission over border facilities for transactions scheduled under the requested authorization will not exceed the authorized limit of the relevant facilities.

OPG notes that the responsibility for data collection and reporting under DOE orders authorizing electricity exports to a foreign country is now vested with the U.S. Energy Information Administration ("EIA"). OPG will compile and preserve full and complete records with respect to its electric energy transactions between the United States and Canada. OPG will submit monthly data to EIA as required by and in accordance with the procedures of Form OE-781R, "Monthly Electricity Imports and Exports Report."

OPG seeks a continuance of its blanket authorization for exports for a minimum period of five years beginning on June 21, 2016, which may be extended upon further application to the DOE.

VI. INFORMATION PURSUANT TO REQUIRED EXHIBITS

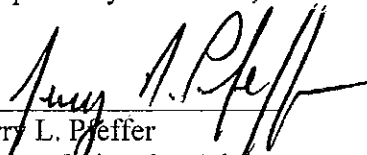
The following information is provided pursuant to the required exhibits as set forth in DOE regulations (10 C.F.R. § 205.303):

- Exhibit A: There are no specific agreements at this time under which electricity is to be transmitted for export. Therefore no Exhibit A is attached.
- Exhibit B: Legal opinion of OPG counsel is attached.
- Exhibit C: List of border transmission facilities to be used for exports undertaken pursuant to the requested authorization is attached.
- Exhibit D: Designation of domestic agent and power of attorney is attached.
- Exhibit E: Neither OPG's corporate relationship with OPGET nor any existing contracts relate to the control or fixing of rates for the purchase, sale or transmission of electric energy in the United States.
- Exhibit F: Not applicable since OPG does not own or operate a utility system in the United States.

VII. CONCLUSION

Based on the foregoing considerations, OPG respectfully requests that DOE grant this application for continued blanket authorization to export power from the United States to Canada with such authorization to become effective as of the date of expiration of OPG's existing authorization and on substantially the same terms and conditions recently granted by DOE to other electric power marketers.

Respectfully submitted,



Jerry L. Pfeffer
Energy Industries Advisor
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7009
jpfeffer@skadden.com

On Behalf of Ontario Power Generation Inc.

December 4, 2015

VERIFICATION

I, Andrew Barrett, Vice President Regulatory Affairs, being authorized to execute this verification and having knowledge of the matters set forth in the above Application of Ontario Power Generation Inc. for Renewal of Authority to Transmit Electric Energy to Canada, hereby verify that the contents thereof are true and correct to the best of my knowledge and belief.



Andrew Barrett

Signed and sworn before me on this 26 day of November, 2015.



Signature of Notary

EVELYN WONG
LSUC ID: 642851

Exhibit B

TRANSMISSION FACILITIES AT THE U.S.-CANADIAN BORDER⁶

| Present Owner | Location | Voltage, | Presidential Permit No. ⁷ |
|--------------------------------------|-------------------------|----------|--------------------------------------|
| Bangor Hydro-Electric Company | Baileyville, ME | 345-kV | PP-89 |
| Basin Electric Power Cooperative | Tioga, ND | 230-kV | PP-64 |
| Bonneville Power Administration | Blaine, WA | 2-500-kV | PP-10 |
| | Nelway, WA | 230-kV | PP-36 |
| | Nelway, WA | 230-kV | PP-46 |
| Eastern Maine Elec. Cooperative | Calais, ME | 69-kV | PP-32 |
| International Transmission Company | Detroit, MI | 230-kV | PP-230 |
| | Marysville, MI | 230-kV | PP-230 |
| | St. Claire, MI | 230-kV | PP-230 |
| | St. Claire, MI | 345-kV | PP-230 |
| Joint Owners of the Highgate Project | Highgate, VT | 120-kV | PP-82 |
| Long Sault, Inc. | Massena, NY | 2-115-kV | PP-24 |
| Maine Electric Power Company | Houlton, ME | 345-kV | PP-43 |
| Maine Public Service Company | Limestone, ME | 69-kV | PP-12 |
| | Fort Fairfield, ME | 69-kV | PP-12 |
| | Madawaska, ME | 138-kV | PP-29 |
| | Aroostook, ME | 2-69-kV | PP-29 |
| Minnesota Power, Inc. | International Falls, MN | 115-kV | PP-78 |

⁶ Information for this Exhibit C was compiled from recent DOE Electricity Export Authorization Orders and DOE publications. *See, e.g., Chubu TT Energy Mgmt. Inc.*, OE Docket No. EA-404 (issued April 21, 2015); *Brookfield Energy Mktg.*, OE Docket No. EA-258-D (issued April 25, 2014).

⁷ Reference is to the currently applicable Presidential Permit No. for the relevant facilities as that permit may have been amended by DOE.

| | | | |
|--------------------------------|-------------------|-----------|---------|
| Minnkota Power Cooperative | Roseau County, MN | 230-kV | PP-61 |
| Montana Alberta Tie Ltd. | Cut Bank, MT | 230-kV | PP-305* |
| New York Power Authority | Massena, NY | 765-kV | PP-56 |
| | Massena, NY | 2-230-kV | PP-25 |
| | Niagara Falls, NY | 2-345-kV | PP-74 |
| | Devil's Hole, NY | 230-kV | PP-30 |
| Niagara Mohawk Power Corp. | Devil's Hole NY | 230-kV | PP-190 |
| Northern States Power Corp. | Red River, ND | 230-kV | PP-45 |
| | Roseau, MN | 500-kV | PP-63 |
| | Rugby, ND | 230-kV | PP-231 |
| Sea Breeze Converter LP | Port Angeles, WA | +/-450kV | PP-299* |
| Vermont Electric Power Co. | Derby Line | 120-kV | PP-66 |
| Vermont Electric Trans. Co. | Norton, VT | +/-450-kV | PP-76 |
| | Milbury, MA | 345-kV | PP-76 |
| | Medway, MA | 345-kV | PP-76 |
| Champlain Hudson Power Express | Champlain, NY | +/-320-kV | PP-362* |

*Transmission facilities that have been authorized but not constructed or placed into full operation

Exhibit C

LEGAL OPINION OF OPG COUNSEL

ONTARIO POWER GENERATION

700 University Avenue, Suite H18A27, Toronto, ON M5G 1X6

Christopher F. Ginther
Senior Vice President Law, General Counsel & Chief Ethics Officer
Tel: 416-592-5081 Fax: 416-592-1466
chris.ginther@opg.com

October 14, 2015

VIA COURIER

Office of Electricity Delivery and Energy Reliability
United States Department of Energy
Room 8G-025
1000 Independence Ave., S.W.
Washington, D.C. 20585-0340

Attention: Mr. Anthony J. Como, Director, Permitting and Siting

Dear Mr. Como:

**Re: Ontario Power Generation Inc. – Application for Renewal of Authority to
Transmit Electric Energy to Canada**

Pursuant to 18 C.F.R §205.303(b) of the regulations of the Department of Energy, I hereby provide a legal opinion regarding the corporate powers of Ontario Power Generation Inc. ("OPG") to export electricity to Canada.

I have examined the Articles of Amalgamation and by-laws of OPG and, based on my review of those documents, it is my opinion that:

1. The proposed importation and exportation of electricity is within the corporate powers of OPG, subject to Section 202(e) of the Federal Power Act, 16 U.S.C. §824a(e); and
2. OPG has directed its officers and agents to take all necessary steps to comply with all pertinent Federal and State laws of the United States in connection with the actions to be undertaken pursuant to the above-referenced Application.

Yours very truly,



Christopher F. Ginther
Senior Vice President Law, General Counsel and Chief Ethics Officer

CG/rb

Exhibit D

**DESIGNATION OF DOMESTIC AGENT
AND POWER OF ATTORNEY**

DOMESTIC AGENT AND POWER OF ATTORNEY

**IRREVOCABLE LIMITED
POWER OF ATTORNEY**

Be it known, I, Bruce Boland of Ontario Power Generation Inc., an Ontario Corporation ("Principal"), with its principal place of business at 700 University Avenue, Toronto, Ontario, M5G 1X6, Canada, do hereby grant a Limited Power of Attorney to my designated agent, CT Corporation System, 1015 15th St, N.W., Suite 1000, Washington, D.C. 20005 as my attorney-in-fact, for the purpose set forth herein ("Attorney-In-Fact").

The Attorney-In-Fact shall have the limited power and authority to receive service of process for any and all matters relating to or arising from the Principal's application before the Department of Energy ("DOE") for the renewal and extension of its existing authorization to transmit electric energy from the United States to Canada, filed with the DOE pursuant to 10 C.F.R., § 205.300 *et seq* on November 26, 2015.

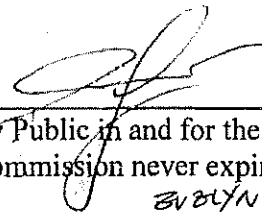
IN WITNESS WHEREOF, the Principal has caused this Limited Power of Attorney to be executed on this 26 day of November, 2015.

Ontario Power Generation Inc.

By: 

Bruce Boland
Senior Vice President, Commercial
Operations and Environment

Subscribed and Sworn before me on this 26th day of November, 2015.



Notary Public in and for the Province of Ontario
My Commission never expires.

2015 NOV 26
64285 ✓